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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

PREPARED FOOD PHOTOS, INC.,
f/k/a ADLIFE MARKETING &
COMMUNICATIONS CO., INC., a
Florida for profit corporation,

Plaintiff,

v.

POOL WORLD, INC., a Washington
for profit corporation,

Defendant.

NO.

COMPLAINT

JURY DEMAND

COMES NOW, Plaintiff Prepared Food Photos, Inc. f/k/a Adlife Marketing
& Communications Co., Inc. ("Plaintiff"), by and through its attorneys of record,
Max K. Archer of Riverside Law Group, PLLC, and alleges, avers, and claims as
follows:

I. THE PARTIES

1. Plaintiff is a corporation organized and existing under the laws of the

1 State of Florida with its principal place of business located in Broward County,
2 Florida.
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4 2. Defendant Pool World, Inc. (“Defendant”) is a corporation organized
5 and existing under the laws of the State of Washington with its principal place of
6 business located at 13524 E Sprague Ave., Spokane, WA 99216. Defendant’s
7 agent for service of process is Grady Early, 13524 E Sprague Ave., Spokane, WA
8 99216.
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11 II. JURISDICTION AND VENUE

12 3. This Court has subject matter jurisdiction over this action pursuant to
13 28 U.S.C. §§ 1331 and 1338(a).
14

15 4. This Court has personal jurisdiction over Defendant because it has
16 maintained sufficient minimum contacts with Washington such that the exercise of
17 personal jurisdiction over it would not offend traditional notions of fair play and
18 substantial justice.
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21 5. Venue properly lies in this district pursuant to 28 U.S.C. § 1400(a)
22 because Defendant or its agents reside or may be found in this district. The Ninth
23 Circuit has interpreted Section 1400(a) to mean that venue is proper in any judicial
24 district in which the defendant would be amenable to personal jurisdiction. *Brayton*
25 *Purcell LLP v. Recordon & Recordon*, 606 F. 3d 1124, 1128 (9th Cir. 2010)).
26 Venue is thus proper in this District because personal jurisdiction exists over
27 Defendant in this District.
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III. FACTS

A. PLAINTIFF'S BUSINESS AND HISTORY.

6. Plaintiff is in the business of licensing high-end, professional photographs for the food industry.

7. Through its commercial website (www.preparedfoodphotos.com), Plaintiff offers a monthly subscription service which provides access to/license of tens of thousands of professional images.

8. Plaintiff charges its clients (generally, grocery stores, restaurant chains, food service companies, etc.) a minimum monthly fee of \$999.00 for access to its library of professional photographs.

9. Plaintiff does not license individual photographs or otherwise make individual photographs available for purchase. Plaintiff's business model relies on its recurring monthly subscription service such that Plaintiff can continue to maintain its impressive portfolio.

10. Plaintiff owns each of the photographs available for license on its website and serves as the licensing agent with respect to licensing such photographs for limited use by Plaintiff's customers. To that end, Plaintiff's standard terms include a limited, non-transferable license for use of any photograph by the customer only. Plaintiff's license terms make clear that all copyright ownership remains with Plaintiff and that its customers are not permitted to transfer, assign, or sub-license any of Plaintiff's photographs to another

1 person/entity.

2 **B. THE WORK AT ISSUE IN THIS LAWSUIT.**

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4 11. In 2001, Plaintiff created a photograph titled
5 “ProduceVegetableGrilled002” (the “Work”). A copy of the Work is exhibited
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7 below:



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22 12. The Work was registered by Plaintiff with the Register of Copyrights
23 on September 29, 2016 and was assigned Registration No. VA 2-019-412. A true
24 and correct copy of the Certification of Registration pertaining to the Work is
25 attached hereto as **Exhibit “A.”**

26
27
28 13. Plaintiff is the owner of the Work and has remained the owner at all
times material hereto.

C. DEFENDANT’S UNLAWFUL ACTIVITIES.

14. Defendant is the largest pool and spa business in the Inland Northwest. It has been in operation since 1976 and has expanded to four (4) store locations with more than sixty (60) employees.

15. Defendant advertises/markets its business primarily through its website (<https://poolworld.biz/>), social media (e.g., <https://www.facebook.com/PoolWorldInc/>), and other forms of advertising.

16. On a date prior to Plaintiff’s above-referenced copyright registration of the Work, Defendant published the Work on its website (at <https://poolworld-grillworld.com/>):



Pool World IS Grill World!!



17. A true and correct copy of screenshots of Defendant’s website, displaying the copyrighted Work, is attached hereto as **Exhibit “B.”**

18. Defendant is not and has never been licensed to use or display the Work. Defendant never contacted Plaintiff to seek permission to use the Work in

1 connection with Defendant's website, social media, or for any other purpose.

2 19. Defendant utilized the Work for commercial use – namely, in
3
4 connection with the marketing of Defendant's business.

5 20. Upon information and belief, Defendant located a copy of the Work
6
7 on the internet and, rather than contact Plaintiff to secure a license, simply copied
8 the Work for its own commercial use.

9 21. Through its ongoing diligent efforts to identify unauthorized use of its
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11 photographs, Plaintiff discovered Defendant's unauthorized use/display of the
12 Work in June 2022. Following Plaintiff's discovery, Plaintiff (through its agents)
13 notified Defendants in writing of such unauthorized use. To date, Plaintiff has been
14 unable to negotiate a reasonable license for the past infringement of its Work.
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16 22. All conditions precedent to this action have been performed or have
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18 been waived.

19 **IV. CAUSE OF ACTION**

20 **COUNT 1 – COPYRIGHT INFRINGEMENT**

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22 23. Plaintiff re-alleges and incorporates paragraphs 1 through 22 as set
23
24 forth above.

25 24. The Work is an original work of authorship, embodying copyrightable
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27 subject matter, that is subject to the full protection of the United States copyright
28 laws (17 U.S.C. § 101 *et seq.*).

25 25. Plaintiff owns a valid copyright in the Work, having registered the

1 Work with the Register of Copyrights and owning sufficient rights, title, and
2 interest to such copyright to afford Plaintiff standing to bring this lawsuit and
3 assert the claim(s) herein.
4

5 26. As a result of Plaintiff's reproduction, distribution, and public display
6 of the Work, Defendant had access to the Work prior to its own reproduction,
7 distribution, and public display of the Work on Defendant's website.
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9 27. Defendant reproduced, distributed, and publicly displayed the Work
10 without authorization from Plaintiff.
11

12 28. By its actions, Defendant directly infringed and violated Plaintiff's
13 exclusive rights in violation of the Copyright Act, 17 U.S.C. § 501, by reproducing,
14 distributing, and publicly displaying the Work for its own commercial purposes
15 and for the commercial purposes.
16
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18 29. Plaintiff has been damaged as a direct and proximate result of
19 Defendant's infringement.
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21 30. Plaintiff is entitled to recover its actual damages resulting from
22 Defendant's unauthorized use of the Work and, at Plaintiff's election (pursuant to
23 17 U.S.C. § 504(b)), Plaintiff is entitled to recover damages based on a
24 disgorgement of Defendant's profits from infringement of the Work, which
25 amounts shall be proven at trial.
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28 31. Defendant's conduct has caused, and any continued infringing
conduct will continue to cause, irreparable injury to Plaintiff unless enjoined by the

1 Court. Plaintiff has no adequate remedy at law. Pursuant to 17 U.S.C. § 502,
2 Plaintiff is entitled to a permanent injunction prohibiting infringement of Plaintiff's
3 exclusive rights under copyright law.
4

5 **V. JURY DEMAND**
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7 Plaintiff demands a trial by jury on all issues so triable.

8 **VI. PRAYER FOR RELIEF**
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10 WHEREFORE, Plaintiff demands judgment against Defendant as follows:

11 1. A declaration that Defendant has infringed on Plaintiff's copyrights in
12 the Work;

13 2. An award of actual damages and disgorgement of profits as the Court
14 deems proper;

15 3. Awarding Plaintiff its costs pursuant to 17 U.S.C. § 505;

16 4. Awarding Plaintiff interest, including prejudgment interest, on the
17 foregoing amounts;

18 5. Permanently enjoining Defendant, its employees, agents, officers,
19 directors, attorneys, successors, affiliates, subsidiaries and assigns, and all those in
20 active concert and participation with Defendant, from directly or indirectly
21 infringing Plaintiff's copyrights or continuing to display, transfer, advertise,
22 reproduce, or otherwise market any works derived or copied from the Work or to
23 participate or assist in any such activity; and
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25 6. For such other relief as the Court deems just and proper.
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1 RESPECTFULLY SUBMITTED this June 2, 2023.

2 RIVERSIDE LAW GROUP, PLLC,

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